

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Petition of LEVEL 3 COMMUNICATIONS, LLC (U-5941-C) for Arbitration Pursuant to Section 252(b) of the Communications Act of 1934, as amended by the Telecommunications Act of 1996, and Applicable State Laws for Rates, Terms and Conditions of Interconnection with Pacific Bell Telephone Company dba SBC California and SBC Communications.

Application 04-06-004  
(Filed June 1, 2004)

**ADMINISTRATIVE LAW JUDGE'S RULING  
GRANTING MOTION TO STRIKE EXCESS PAGES**

This ruling grants SBC California's (SBC) motion to strike Exhibit A to Level 3 Communications, LLC (Level 3) Comments on Draft Arbitrator's Report, filed January 11, 2005.

Resolution ALJ-181, Rule 3.19 provides that comments on the Draft Arbitrator's Report shall not exceed 20 pages unless otherwise authorized by the Arbitrator. In addition to its 20 pages of comments on four issues, which it presents in the customary form, Level 3 included a six-page matrix of additional alleged errors of fact and law and Level 3's recommended changes to correct them as Exhibit A. Exhibit A is in violation of the page limit of Rule 3.19 and is therefore stricken.

In its opposition filed January 14, 2005, Level 3 asserts that the text in the matrix is not argument, but "simply a map of where Level 3 has remaining concerns" with the Draft Arbitrator's Report. Nevertheless, Level 3 describes its

matrix as stating errors of fact and/or law and identifying the sections of the proposed interconnection agreement that would need to be modified in order to correct those errors. Level 3's description confirms the nature of the matrix as argument. Assertions of error and proposed modifications to correct them are argument.

Level 3 asserts that its matrix should be permitted as it "documents testimony and other evidence already filed in the arbitration proceeding for the convenience to the arbitrator" and is therefore consistent with the Commission's conclusion in D.02-09-049. It is not. D.02-09-049 struck extra-record documents and new information and argument that were included as appendices to comments to a draft decision, and only waived the page limitations of Rule 77.3 of the Commission's Rules of Practice and Procedure to allow copies or excerpts of documents already filed in the proceeding. Level 3's matrix consists of argument, and makes no reference to record.

Level 3 suggests that its matrix is consistent with Rule 77.3, which requires comments to include an appendix setting forth proposed findings of fact and conclusions of law, which does not count against the page limit. Level 3's matrix does not conform to Rule 77.3. The appendix described in Rule 77.3 is to reflect the errors identified in the text of the comments, not to address additional errors.

Level 3's opposition to SBC's motion was to have been served by 1:30 p.m. on January 14. Although it appears that Level 3 sent its "Opposition of Level 3 Communications, LLC to SBC California's Expedited Motion to Strike Pages from Level 3's Comments on Draft Arbitrator's Report" to the service list at 12:42 p.m., it was not received by the service list until 3:35 p.m. After considering Level 3's opposition and in order to give the parties the benefit of my

ruling as expeditiously as possible, I gave advance notice of this ruling by electronic mail at 4:40 p.m. that same day.

On January 18, 2005, Level 3 filed a document entitled “Declaration in Support of the Opposition of Level 3 Communications, LLC to SBC California’s Expedited Motion to Strike Pages from Level 3’s Comments on Draft Arbitrator’s Report” asking that I consider its January 14 opposition as timely served, that I consider the substantive arguments in that pleading, and that I reconsider my ruling. Level 3’s January 14, 2005, opposition is timely filed. I duly considered Level 3’s substantive arguments in making my ruling. Level 3’s request for reconsideration is denied.

**IT IS RULED** that Exhibit A to Level 3 Communications, LLC’s Comments on Draft Arbitrator’s Report, filed January 11, 2005, is stricken.

Dated January 19, 2005, at San Francisco, California.

/s/ HALLIE YACKNIN  
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Hallie Yacknin  
Administrative Law Judge

**CERTIFICATE OF SERVICE**

I certify that I have by mail, and by electronic mail, to the parties to which an electronic mail address has been provided, this day served a true copy of the original attached Administrative Law Judge's Ruling Granting Motion to Strike Excess Pages on all parties of record in this proceeding or their attorneys of record.

Dated January 19, 2005, at San Francisco, California.

/s/ TERESITA C. GALLARDO  
Teresita C. Gallardo

**N O T I C E**

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

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If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.

